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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/457,841      | 12/09/1999  | PATRICK H. TOMOSON   | 450-307US1          | 8133             |

24333 7590 08/12/2002

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EXAMINER

DU, THUAN N

ART UNIT

PAPER NUMBER

2185

DATE MAILED: 08/12/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/457,841

Applicant(s)

TOMOSON ET AL.

Examiner

Thuan N. Du

Art Unit

2185

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 09 December 1999.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 11-15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 16-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☒ Interview Summary (PTO-413) Paper No(s). 3.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Election/Restrictions*

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-10 and 16-19, drawn to system reconfiguration, classified in class 713, subclass 100.
  - II. Claims 11-15, drawn to system configuration, classified in class 713, subclass 1.
2. Inventions Group I and Group II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the invention of Group I is how to restore the known-good configuration. The subcombination has separate utility such as how to determine store the configuration.
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
4. Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.
5. During a telephone conversation with John M. Dahl on July 31, 2002 a provisional election was made without traverse to prosecute the invention of Group I, claims 1-10 and 16-

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19. Affirmation of this election must be made by applicant in replying to this Office action.

Claims 11-15 withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

6. Claims 1-10 and 16-19 are presented for examination.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1, 9, 16 and 18-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Ward “Linux Kernel HOWTO,” November 22, 1994.

9. Regarding claim 1, Ward teaches a method of providing a known-good configuration for a computer comprising the steps of:

storing a known-good computer configuration [p. 9, lines 4-5 of first paragraph]; and

restoring the known-good configuration via non-interactive user input [p. 9, lines 1-7 of paragraph 3].

10. Regarding claim 9, Ward teaches a method of restoring a known-good configuration comprises actuating a non-interactive user input that causes software executing on the computer to restore the known-good configuration [p. 9, lines 1-7 of paragraph 3]<sup>1</sup>.

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<sup>1</sup> The act of changing the boot image in LILO configuration file is done by *the user* (non-interactive user input).

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11. Regarding claims 16, 18 and 19, Ward teaches the claimed method steps. Therefore, Ward teaches the apparatus to implement the claimed method steps.

***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 2, 3, 5, 7, 8, 10 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ward "Linux Kernel HOWTO," November 22, 1994.

14. Regarding claims 2, 10 and 17, Ward teaches the use of a special-purpose keyboard key (Shift key) to interrupt the system before the system boot up [p. 9, lines 9-10 of third paragraph]. Therefore, it would have been obvious to one of ordinary skill in the art to use any other keys or switch as the non-interactive user input.

15. Regarding claims 3 and 5, Ward discloses the known-good configuration comprises hardware and/or software configuration [pages 1-2, parts 2.1-2.3].

16. Regarding claim 7, it is the matter of design choice to store the known-good configuration incrementally comprising those changes made to the configuration since a previous stored configuration or overwriting the previous stored configuration.

17. Regarding claim 8, it is the matter of design choice to use one of the devices consisting of a hard disk drive, a diskette, a network server, and a hard disk protected area to store the known-good configuration.

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18. Claims 4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ward "Linux Kernel HOWTO," November 22, 1994 and Applicant's admission of prior art [AAPA].

19. Regarding claim 4, Ward does not detail the hardware configuration comprises at least one configuration component of selected from the group consisting of address space data, IRQ data, DMA data, DMI data, and plug and play hardware configuration data.

AAPA discloses the hardware configuration comprises at least one configuration component of selected from the group consisting of address space data, IRQ data, DMA data, DMI data, and plug and play hardware configuration data [Application's specification, p. 2, lines 1-2].

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Ward and AAPA because it would clearly show Ward's hardware configuration list.

20. Regarding claim 6, AAPA discloses the software configuration comprises at least one configuration component of selected from the group consisting of .sys file data, .ini file data, operating system configuration file data, Microsoft Windows registry data, and hardware device driver files [Application's specification, p. 1, lines 19-21].

### ***Conclusion***

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thuan N. Du whose telephone number is (703) 308-6292 or via e-mail, **thuan.du@uspto.gov**. The examiner can normally be reached on Monday-Friday: 9:00 AM - 5:30 PM, EST.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas C. Lee can be reached on (703) 305-9717.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231.

The fax numbers for the organization where this application or proceeding is assigned are as follow:

- (703) 746-7238 [After Final Communication]
- (703) 746-7239 [Official Communication]
- (703) 746-7240 [Non-Official Communication]


and/or:

(703) 746-5668 (use this fax number, only after approval by Examiner, for

"INFORMAL" or "DRAFT" communication).

Hand-delivered responses should be brought to:

Crystal Park II  
2121 Crystal Drive  
Arlington, VA 22202  
Fourth Floor (Receptionist).



THOMAS LEE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100

Thuan N. Du  
July 31, 2002